IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5751 OF 2004

Rishikumar J. Panchal ...Petitoner.

V/s

State of Maharashtra ...Respondent.

Mr. A.P. Mundargi with Shyam Kumar V. Marwadi for the petitioner.
Mr. A.M. Shringarpure, APP for the State.

CORAM: V.M.KANADE,J.

DATE: 20th April, 2005

P.C.:

1. Heard the learned Counsel for the petitioner and the learned APP for the State.

2. Petitioner is an original accused in Sessions Case No.543 of 2000 arising out of C.R. No.22 of 2000 which was registered by Vakola Police Station under section 324 of the Indian Penal Code and under sections 3 and 4 of the Explosive Substance Act and Section 9(B) of the Indian Explosive Act.

3. Petitioner is challenging the order passed by the Sessions Court dated 16th November, 2004 rejecting the application filed by the petitioner seeking an order of remand to the trial court for the purpose of deleting the offence punishable under the Explosive

Act.

4. Brief facts for the purpose of deciding the present application are that the petitioner and one Asmita Balkrishna Kambli were students at the Engineering College and the petitioner was in love with the said Asmita. Some time in 1999, after Asmita passed her examination, she informed him that she was going to marry one Mangesh Pednekar. It is alleged by the prosecution that the petitioner got enraged and decided to take revenge and he prepared a bomb in a box and delivered it in the house of the said Mangesh Pednekar. The complainant was present in the house and he noticed a wire in the parcel and, therefore, he immediately informed the Police. After some time, Police came and while Police Constable Ghadigaonkar was taking away parcel, it fell in the gutter and there was an explosion. The FIR was registered and the petitioner was arrested. Thereafter, an application was preferred under section 228(1)(a) of the Cr.P.C. for remanding the matter back to the trial court on the ground that the C.A. report disclosed that no explosive substance was found and, therefore, no offence was made out under the Explosive Act. The Sessions Court, however, rejected the said application. Petitioner, however, was released on

bail.

5. The learned Counsel appearing on behalf of the petitioner has taken me through the Chemical Analyser's report and has submitted that no explosive substance was found at the scene of the offence and, therefore, the provisions of the Explosive Act were not applicable.

6. The learned APP has taken me through the provisions of Explosive Act and has vehemently opposed the submissions made by the learned counsel appearing on behalf of the petitioner.

7. It is not possible to accept the submissions made by the learned Counsel for the petitioner. The Chemical Analyser's report nowhere states that no explosive substance was found in the parcel. On the contrary, it is stated in the result of analysis that Potassium, Aluminium, Nitrate, Nitite, Sulphate and Sulphite were detected and it is further stated that ions detected in Exhibit Nos. 1 and 2 clearly indicated the fire work composition. Exhibit-1 is a plastic box containing yellowish white paper having blackish stains. Exhibit-2 is a plastic cylindrical object open from both sides having blackish stains

wrapped in paper and Exhibit Nos. 3 to 5 consist of red coloured Greep Battery of 1.5 volt having greyish stains wrapped in paper separately. Thus, from this C.A report it cannot be said that no explosive substance was found in the said parcel.

8. The Trial Court, in my view, has given cogent reasons for rejecting the application filed by the applicant. There is no reason to interfere with the well reasoned order passed by the trial court. Criminal Application is, therefore, rejected.

V.M. KANADE, J.